

REMARKS

This is in full and timely response to the Official Action of November 2, 2004. Reexamination and reconsideration re respectfully requested. A petition to extend the time for this response to within the two extended month accompanies this paper. That extension makes this response due on Saturday, April 2, 2005 so this paper is timely for its filing on Monday, April 4, 2005.

A copy of the Applicant's prior patent, No. 6,652,455 is provided for the convenience of the examiner. The '455 patent acknowledges the filing of the parent patent on August 11, 2000 claiming priority on the basis of a provisional application filed on August 13, 1999.

By this response, the limitations of claim 28 are migrated to claim 27 and claim 43 migrated to claim 42, thus obviating the stated anticipation rejections, without agreement in or acquiescence with the stated rejections. Thus, Goetz teaches a veterinary medication monitoring system and apparatus that pertains to a veterinary medical information product controlled by a handler or owner of the animal to which the information pertains. The problems pertain mainly to the information provided by a veterinarian or one filling the veterinarian's instructions and as understood by one provided the medication to the animal. Thus, the Goetz invention relates to a system to "better control" implementation of medication therapies by tasking and displaying those items noted in the Summary of the Invention at col. 1, line 60 to col. 3, line 5. It should be noted that the limitations of claims 27 and 42 are not met in that the product information is said to be provided to a user (not an animal) and the product information relates to the product being internally consumable by the user. Goetz thus does not relate to the field of invention of the Applicant's claims.

But even assuming arguendo for the sake of this argument only and without conceding that the system of Goetz reads on the system of former claims 27 and 42 of the Applicant's invention, there is no teaching, hint or suggestion for its modification including any of the disclosure of Palti. Palti is not from the same field of use as Goetz, and neither is directed to the field of use of the Applicant's claims. Nevertheless, the examiner has recognized the deficiencies of Goetz at page 4 of the Action, but has not indicated where in either reference there is a motivation, suggestion or teaching that the pill coding used in Palti

should be used in the system of Goetz when the problems discussed for example at columns 1 and 2 of Palti are considered. Palti's coding system is not concerned with the types of items which Goetz addresses, thus mitigating the cross utility between the two systems. "Could be used" is not the test. What motivates one of skill in the art to use the coding system of Palti in the system of Goetz? Where is that found in the references or in the skill in the art, without a hindsight use of the Applicant's specification. The examiner's prima facie case fails to address these requirements.

Even if such a modification is "well known" as argued by the examiner, what prompts one of skill in the art to make the modification without a hindsight analysis?

The amended claims are thus allowable over the art of record in the combination proposed by the examiner.

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Respectfully submitted,

By

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